

despite the concatenation and capitalization of the phrases in question, they refer to the same matter. The concatenation and capitalization of these phrases is a well understood artefact of the programming arts.

The Examiner has also alleged that claims 1 through 17 are rejected as non-patentable subject matter. The Examiner has made this allegation on the basis of two grounds. The first ground is that the claims fail to provide a useful, concrete and tangible result. Applicants respectfully disagree with this premise. Having regard to claim 1, please note the limitation "wherein one of said bidder agents issue said best bid and provides said resources." The provision of said resources constitutes a tangible result. The application characterizes the resources in question on page 9, page 11 and in Figure 12. Examples of such resources include leased lines for use in call connection or flight reservations. Applicants further note that the tangible result may be expressed in numbers such as price, profit, percentage, cost or loss. For authority, Applicants refer to *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368, 47 USPQ2d 1596 (Fed.Cir. 1998).

Having regard to claim 8, Applicants again traverse. Claim 8 is an apparatus claim. When construing statutory subject matter, one must refer to the claim as a whole. See *Diamond v. Diehr*, 450 U.S. 175 (1981). Further, claims directed to a machine must benefit from the plain and unambiguous meaning of Section 101, *i.e.*, a machine is not an abstract idea and therefore any test for abstractness (useful, concrete, tangible) is inapplicable. For authority, Applicants refer to *In Re Alappat*, 33 F.3d 1526, 31 USPQ2d 1545 (Fed.Cir. 1994). Furthermore, claim 8 includes the limitation "issuing said cache bids to said bid manager." Applicants contend that this feature constitutes a tangible result according to the *State Street Bank* definition.

Regarding claim 9, Applicants note the presence of the limitation "bids are stored in said each along with said predetermined context." Again, Applicants contend that the limitations of claim 9 meet with the requirements of the *State Street Bank* test for tangibility.

Having regard to the Examiner's contention that claims must provide a limitation in the technical arts, Applicants respond that the claims presently provide such a limitation. Each of claims 1, 8 and 9 refer to resources. In the specification, resources are associated with call connection. Therefore, the claims do recite technology. Applicants further note that the application appears to be improperly categorized. The priority application was provided a classification of H04M

(telephonic communication). However, it appears that the U.S. application has been interpreted as relating to data processing (financial, business practice, management, or cost price determination). Applicants refer to the definition of the scope of the class for class 705. The application does not relate to the administration of an organization, commodity or a financial transaction. Furthermore, the claims in question make more than a nominal recitation of any external art environment. Applicants contend that the previous arguments relating to Section 101 also establish reference to an external art environment. This application should have been classified according to the class appropriate to the aforementioned resources, *i.e.*, a class commensurate with international classification H04M. Withdrawal of the allegation of non-statutory subject matter is respectfully requested.

The Examiner also alleges that claims 1 through 17 are obvious having regard to U.S. Patent 6,073,176 A (Baindur et al.). Applicants respectfully disagree. In columns 15 and 16, Baindur describes a "stack group bidding protocol." The disclosure of Baindur teaches directly away from the present invention. In the Baindur reference, members of the stack group bid resources in order to acquire an event. The highest bid of resource wins. According to the present invention, in response to circumstances which can be likened to the event of Baindur, a request for bids is generated. Those bids represent the "cost" of a set bundle of a resource. The lowest cost bid is the best bid. These two processes are essentially at odds. In the first, the resources are variable. In the second, the value of a bundle of resources is a variable.

The Examiner further alleges that "the concept and steps of calling for bids for the provision of resources, processing the bids, determining the best bid, and awarding the winning bid by any other name is still just that ordinary old and well known process." The Applicants respectfully disagree. The novelty and in obviousness of an application must be established by comparison to the prior art. The statement is only supposition. Withdrawal of the allegation of obviousness is respectfully requested.

CONCLUSION

For at least the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-17) are in condition for allowance.

Respectfully submitted,

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